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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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02/17/2004

Nobuyuki Tatsumi

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RANKIN, HILL & CLARK LLP

38210 Glenn Avenue

WILLOUGHBY, OH 44094-7808

EXAMINER

RAMDHANIE, BOBBY

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

08/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/779,943	Applicant(s) TATSUMI, NOBUYUKI	
	Examiner BOBBY RAMDHANIE	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, & 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/19/2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, & 3-6 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

3. Claims 5 & 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: Claim 5 recites a pump which is used to supply the second rinsing liquid to the second rinsing bath. The prior art of record does not disclose not suggest this limitation. Claim 6 recites the limitation of a switcher which would allow a different liquid to be supplied as the rinsing liquid for the second rinsing bath.

Claim 3 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose only soaking the needle in the first bath and then both soaking and flushing and aspirating the inside of the needle with the second rinsing bath.

4. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose nor suggest plural liquids to be supplied to the second rinsing bath.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 & 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite the controller “selectively” performs a function. It is unclear how the controller (an inanimate object) makes a conscious decision.

7. Claims 1 & 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite the automatic sampler - “sucks.” It

is unclear how the automatic sampler (an inanimate object) performs a conscious decision.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Shimadzu's AOC-17 auto injector or AOC-20 series Automatic Sampling System.

10. Applicant's claims are toward an apparatus.

Regarding Claim 1, Shimadzu's AOC17 Auto Injector or AOC-20 series automatic sampling system discloses the automatic sampler comprising: A). A needle adapted to suck a sample from a sample liquid bath and to inject the sample into a sample introducing portion which is in fluid communication with a column of a liquid chromatography; B). A first rinsing bath adapted to contain a first rinsing liquid (See Injection solvent flush requires a receptacle to hold the rinsing solution); C). A second rinsing bath adapted to contain at least one kind of second rinsing liquid (See Injection, a second flush solvent requires a receptacle to hold the rinsing solution; and D). A controller, configured to selectively execute at least one of a first rinsing operation which soaks the needle in the first rinsing liquid in the first rinsing bath, and a second rinsing operation which soaks the needle in the second rinsing liquid in the second rinsing bath

and exchanges the second rinsing liquid while the needle is kept inserted into the second rinsing bath (See PC - which has appropriate software). The claim is toward an automatic sampler which comprises a needle, two "rinsing baths," and a controller. Both the AOC-17 and AOC 20 discloses these features (note –"rinse solvent container" or "rinse solvent vial" for both automatic sampling devices can define a "rinsing bath." Both of these auto injectors are capable to be used in fluid communication with a column of a liquid chromatography.

Telephonic Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BOBBY RAMDHANIE whose telephone number is (571)270-3240. The examiner can normally be reached on Mon-Fri 8-5 (Alt Fri off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bobby Ramdhanie, Ph.D./
Examiner, Art Unit 1797
/B. R./

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797